

17.08.040 – Nonconforming buildings and structures

This Section regulates land, buildings and structures existing on the effective date of this Title that do not conform to the yard, height, lot coverage, or other dimensional or bulk provisions of this Title. (See Section 17.08.060 for additional provisions relating to signs.)

A. Ordinary Repairs and Maintenance

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing may be performed on any nonconforming building or structure. No repairs or reconstruction shall be made that would create any new nonconformity, or increase the degree of any previously existing nonconformities.

B. Structural Alterations

Structural alterations, other than additions and enlargements, may be performed on a nonconforming building or structure, only in the following situations:

1. When the alteration is required by law or is necessary to restore the building or structure to a safe condition upon the order of any official charged with protecting the public safety.
2. When the alteration will not create any new nonconformity or increase the degree of any existing nonconformity.
3. When the alteration will result in eliminating the nonconformity.

C. Additions and Enlargements

A building or structure, which is nonconforming with respect to its bulk, shall not be enlarged or added on to unless the addition does not create any new nonconformity or increase the degree of any existing nonconformity, except as follows: Where a wall of an existing single-family or two-family building is nonconforming with respect to the minimum yard or setback requirement, the nonconforming wall may be extended vertically and/ or horizontally by adding to the existing building, subject to the following:

1. The existing nonconforming wall exclusive of a foundation wall must remain intact.
2. The wall extension shall not be any closer to the lot line than the existing nonconforming wall.
3. The extended building wall shall not create any additional nonconformities on the site.
4. The maximum building coverage and building height shall not be exceeded.

This section shall not permit the construction of a dwelling on a nonconforming foundation.

D. Relocation

A nonconforming building or structure shall not be relocated, in whole or in part, to any other location on the same zoning lot or parcel, or to any other zoning lot or parcel, unless the building or structure shall thereafter conform to all regulations of the zoning district in which it is relocated.

E. Damage or Destruction

1. In the event that any nonconforming building or structure is damaged or destroyed by any means not within the control of the property owner or tenant to the extent of fifty percent (50%) or more of its replacement value at that time, then the building or structure shall not be restored or rebuilt unless the building or structure, including foundation, thereafter conforms to all regulations of the zoning district in which it is located. The replacement value of the building or structure shall be based on: 1) the sale of that building or structure within the previous year or, if that is not applicable; 2) an appraisal within the last two (2) years or, if that is not available; 3) the amount for which the building, structure or property was insured prior to the date of the damage or destruction or; 4) an alternative method determined acceptable by the City Council.
2. When a nonconforming building or structure is damaged or destroyed by any means not within the control of the property owner or tenant to the extent of less than fifty percent (50%) of the replacement value at that time, it may be repaired or reconstructed provided that no new nonconformities are created and that the degree of nonconformity existing prior to the damage or destruction is not increased. A building permit shall be obtained for such rebuilding, restoration, repair or reconstruction within one (1) year of the date of damage or destruction, and the construction shall be completed within one (1) year of issuance of the building permit.
3. In the event that a building permit is not obtained within one (1) year, or that repairs are not completed within one (1) year of the issuance of the building permit, then the building or structure shall not be restored unless it conforms to all regulations of the district in which it is located.

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4. In the event that any nonconforming building or structure or part thereof is removed, demolished or destroyed by means within the control of the property owner or tenant, the building or structure or part thereof that was removed, demolished or destroyed, as restored or repaired, shall comply with all requirements of this Title.

(1960-16 : § V (D); 2016-Z-11 : § 2)